



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Office of the Director
Group 3600

In re application
Serial No. 08/581050
Filed: December 27, 1995
For: PACKING

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:DECISION ON PETITION
:UNDER 37 CFR 1.181
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This is a decision on the petition filed January 26, 2001, captioned "PETITION UNDER 37 CFR 1.181." The petition is considered a petition to enter the preliminary amendment filed December 21, 2000.

A continuation application was filed November 28, 2000, without a preliminary amendment, although the Transmittal form indicated that a preliminary amendment was enclosed. A final office action was issued December 14, 2000. A preliminary amendment was filed in the mailroom of the USPTO on December 21, 2000. This preliminary amendment was not received by the examiner until after December 26, 2000, evidenced by the mail room date of Technology Center 3600. That amendment was treated as an amendment after final rejection and refused entry in an Advisory Action mailed January 9, 2001.

Applicant requests entering of the preliminary amendment because he believes the delay in filing of the amendment would not appear to be an unreasonable delay, especially in view of the fact that the examiner may have been advised that an amendment would be forthcoming.

The filing of a continuation application places the application on an examiner's amended application docket, which requires the examiner to complete an office action in a significantly reduced amount of time. No amendment was filed with the CPA. Although the applicants may have suggested there may be a forthcoming amendment, applicants attorney did not submit one in a timely fashion. The examiner had no choice but to act upon the application when he did, and the application was properly acted upon in turn. Further, applicant was afforded the ability to request a suspension of action under 37 CFR 1.53(d), during which time an amendment could have been prepared and submitted. Applicant did not request the suspension of time.

The petition is **Denied**.

Gerald Goldberg
Director, TC 3600
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